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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/427,775 10/26/99 KIDD

J TUEC.IP2005

EXAMINER

IM22/0305

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FADGETT M	
ART UNIT	PAPER NUMBER

1762
DATE MAILED:

03/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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Office Action Summary

Application No. 09/427,775	Applicant(s) Kidd et al
Examiner ML. Palselt	Group Art Unit 1762

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-150 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-150 are subject to restriction or election requirement.

Applicant Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1762

- (1) Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 1-133, drawn to a method for plasma planting using (?) a heated filament, classified in class 427, subclass 562 + or 570 +.
 - II. Claims 134-150, drawn to a hot filament plasma apparatus, classified in class 118, subclass 723 HC.

- (2) The inventions are distinct, each from the other because:

Inventions group I and group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.E.P. § 806.05(e)). In this case the apparatus can be used for processes other than plating, such as implanting the substrate, or using the substrate as a dish or holder to collect powder formed by the plasma process. Note there is also a problem in the method claims, in that in claims 103-110 which claim different forms of "filaments" includes "species" that ARE NOT and CANNOT be filaments, so while the apparatus claims as written include only a filament for an evaporation source, it is not clear that the method claims do.

- (3) Claims 1-102 and 117-133 are generic to a plurality of disclosed patentably distinct species comprising:

(A) species group for "filaments" (but possibly intended to be types of evaporation sources/techniques):

Art Unit: 1762

- (I) basket or coil (these could really be filament shapes);
- (ii) boat or crucible (synonyms, not properly filaments);
- (iii) ray gun (generic gun): (iii-a) electron beam gun;
(iii-b) heat gun .

(B) heating species (note A(iii) might ^{be} get better in the ^{is} group, but is called a filament):

- (I) current (resistance heating)
- (ii) chemical reaction (exothermic)
- (iii) microwave

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

(4) Because these inventions are distinct for the reasons given above, and have acquired a separate status in the art as shown by their different classifications, their recognized divergent subject matter, and their different required searches, restriction for examination purposes as indicated is proper.

Art Unit: 1762

(5) A telephone call was made to Robert Ward on 12/20/00 to request an oral election to the above restriction requirement, but did not result in an election being made.

No response with a decision was received by 1/12/00, hence the restriction was sent for mailing.

(6) Any inquiry concerning this communication should be directed to M.L. Padgett at telephone number (703)308-2336 in Monday-Friday from 8:00 a.m.- 4:30 p.m., FAX number (703)305-5408 (official) or 305-6078 (unofficial).

Padgett/dh

March 1, 2001

March 2, 2001

A handwritten signature in black ink, appearing to read 'Marianne Padgett', with a large, stylized initial 'P'.

**MARIANNE PADGETT
PRIMARY EXAMINER
GROUP 1700**